

IN THE UNITED STATE DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CR. NO. 2:23-cr-20191-MSN-5

EMMITT MARTIN, III,
TADARRIUS BEAN, DEMETRIUS
HALEY, DESMOND MILLS, JR.,
AND JUSTIN SMITH

Defendants.

SUPPLEMENTATION AND ADDENDUM TO THE POSITION PAPERS FILED BY
DEFENDANT, JUSTIN SMITH, [ECF NO.: 725] IN RESPONSE TO THE PRESENTENCE
REPORT [ECF NO.: 714]

COMES NOW, Defendant, Justin Smith, by and through his counsel of record, and
files this his Supplementation and Addendum to the Position Papers Filed in Response to the
Presentence Report and would state and show unto the Court the following:

1. On December 18, 2024, the United States Probation Office filed its Presentence Investigation Report with regard to the Defendant, Justin Smith. [ECF No.: 714]
2. On January 7, 2025, Defendant, Justin Smith, filed his Position Paper With Respect to Sentencing Factors. [ECF No.: 725]
3. Counsel for Justin Smith would adopt, as if copied verbatim herein, his earlier response and position paper to the Presentence Report where he fully and fairly examined the position of the Probation Office and objected where appropriate.

4. Since the filing of his original Position Paper, Justin Smith has stood trial in state court for charges ranging from Second-Degree Murder, Aggravated Assault, Aggravated Kidnapping, Official Misconduct and Official Oppression, and all of its lesser included offenses totaling twenty-one (21) counts. Justin Smith was unanimously acquitted of all counts on May 7, 2025.

5. As such, any reference to any pending criminal charges against Justin Smith should be amended in the Presentence Report.

6. In addition, Justin Smith would call to the Court and Probation Office's attention the following irregularities.

7. In ECF No.: 741-1 filed on January 15, 2025, entitled "Addendum to the Presentence Report for Tadarrius Bean," the Probation Office concedes that with the amendment to the 2024 sentencing guidelines, acquitted conduct cannot be included in establishing the guideline range.

8. At page four (4) of five (5) of the Addendum, Page ID 15054, the Probation Officer states:

If the Court finds that a cross reference pursuant to USSG §2J1.2(c)(1) is not appropriate and an adjustment under USSG §3B1.3 is not applied, the guideline calculations would be as follows: . . .

9. In the Probation Office's calculation wherein a cross reference is not utilized to Second-Degree Murder or any acts of violence, the Probation Office concluded that Mr. Bean would have a total offense level of twelve (12).

10. To date, the Probation Office has not issued an addendum or amended the Presentence Report for Justin Smith, but believes that both the Probation Office and this Court

understand that both Mr. Bean and Mr. Smith were each convicted of the single count of Obstruction of Justice – Witness Tampering.

11. Defendant, Justin Smith, would request that the Probation Office amend its Presentence Report taking into account the arguments made in Justin Smith's original Position Paper [ECF No.: 725] as well as the recent acquittal of all state criminal charges.

Respectfully submitted,

/s/Martin Zummach

Martin Zummach #16352

Attorney for Defendant, Justin Smith

2889 Chattering Lane

Southaven, MS 38672

(901) 482-5909

CERTIFICATE OF SERVICE

The undersigned certifies that on the 15th day of May, 2025, a copy of the foregoing document was electronically filed with court clerk using the ECF System, and that upon filing, a copy will be sent via the Court's ECF System to all registered parties in this case.

S/Martin Zummach